

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 4, 2002

IN RE:

**PETITION FOR APPROVAL OF
AMENDMENT TO INTERCONNECTION
AGREEMENT BETWEEN BELL SOUTH
TELECOMMUNICATIONS, INC. AND
NETWORK TELEPHONE CORPORATION**

DOCKET NO. 02-01108

**ORDER APPROVING
AMENDMENT TO THE INTERCONNECTION AGREEMENT**

This matter came before Chairman Sara Kyle, Director Pat Miller, and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on November 18, 2002 to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the fifth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Network Telephone Corporation.

The original interconnection agreement between these parties was filed on July 26, 2001 and was assigned Docket No. 01-00659. It was approved at a regularly scheduled Authority Conference on September 25, 2001. The first amendment was filed on August 8, 2001 under Docket No. 01-00696 and was approved at a regularly scheduled Authority Conference on October 9, 2001. The second amendments were filed on April 9, 2002 under Docket No. 02-00390 and were approved at a regularly scheduled Authority Conference on June 11, 2002. The third amendments were filed on May 3, 2002 under Docket No. 02-00505 and were approved at

a regularly scheduled Authority Conference on July 23, 2002. The fourth amendment was filed on July 24, 2002 under Docket No. 02-00808 and was approved at a regularly scheduled Authority Conference on September 9, 2002. The fifth amendment, which is the subject of this docket, was filed on October 2, 2002.

Based upon a review of the fifth amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.
- 3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).¹ Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.


¹ See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).


- 5) No person or entity has sought to intervene in this docket.
- 6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:

The Petition is granted, and the fifth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Network Telephone Corporation is approved and is subject to the review of the Authority as provided herein.


Sara Kyle, Chairman


Pat Miller, Director


Ron Jones, Director